

IN THE
ARIZONA COURT OF APPEALS
DIVISION TWO

THE STATE OF ARIZONA,
Appellee,

v.

DAVID RAY MONTIJO,
Appellant.

No. 2 CA-CR 2015-0254
Filed February 10, 2016

THIS DECISION DOES NOT CREATE LEGAL PRECEDENT AND
MAY NOT BE CITED EXCEPT AS AUTHORIZED BY APPLICABLE RULES.

NOT FOR PUBLICATION

See Ariz. R. Sup. Ct. 111(c)(1); Ariz. R. Crim. P. 31.24.

Appeal from the Superior Court in Pinal County
No. S1100CR201301079
The Honorable Dwight Callahan, Judge

AFFIRMED

COUNSEL

Heard Law Firm, Mesa
By James L. Heard
Counsel for Appellant

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MEMORANDUM DECISION

Judge Miller authored the decision of the Court, in which Chief Judge Eckerstrom and Judge Howard concurred.

M I L L E R, Judge:

¶1 Appellant David Montijo was convicted after a jury trial of unlawful flight from a law enforcement vehicle. The trial court suspended the imposition of sentence and placed Montijo on supervised probation for three years, ordering him to serve a jail term of eighty-two days but giving him eight-two days' credit for time he had already served. Appointed counsel has filed a brief on appeal pursuant to *Anders v. California*, 386 U.S. 738 (1967), and in compliance with *State v. Clark*, 196 Ariz. 530, 2 P.3d 89 (App. 1999).¹ Montijo has not filed a supplemental brief.

¶2 The evidence, viewed in the light most favorable to sustaining the jury's verdict, *State v. Burns*, 237 Ariz. 1, ¶ 72, 344 P.3d 303, 322 (2015), established Detective McCloskey of the Pinal County Sheriff's Office, observed Montijo driving at a speed of over ninety miles per hour, and activated the lights and siren of his clearly marked law enforcement vehicle to stop Montijo. McCloskey pursued Montijo, joined by another officer, both operating proper emergency equipment in their marked vehicles in accordance with

¹Notwithstanding counsel's statement that "this case discloses no arguable issues for appeal," he states the trial court should have admitted exculpatory hearsay and it would have been "proper" for the court to have undertaken "a full hearing on the issue of identification." Except as necessary to discharge our duty to review the record for fundamental or reversible error, we do not address these issues in light of counsel's reliance on *Anders* and *Clark*, and the absence of a supplemental brief.

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A.R.S. § 28-624(C), and Montijo fled, evading the officer, thereby violating A.R.S. § 28-622.01. Although Montijo abandoned the vehicle, fled on foot, and was arrested the next day by other officers, McCloskey found personal items inside the car belonging to Montijo, including identification, and identified him at trial as the person he had pursued.

¶3 The record contains ample evidence to support the verdict. As requested, we have reviewed the record for “fundamental or reversible error” and have found none. Nor have we found any error with respect to the trial court’s imposition of the term of probation. We, therefore, affirm the conviction and the probationary term.